

**UNIVERSITY OF SWAZILAND**

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**DEPARTMENT OF LAW**

**SUPPLEMENTARY EXAMINATION PAPER, 2014**

**PAPER TITLE: INTERNATIONAL TRADE AND INVESTMENT LAW**

**COURSE CODE: L508**

**TIME ALLOWED: THREE (3) HOURS ONLY**

**INSTRUCTIONS: ANSWER ANY FOUR QUESTIONS. ALL QUESTIONS  
CARRY EQUAL MARKS**

**UNLESS PERMISSION HAS BEEN GRANTED BY THE INVIGILATOR, DO  
NOT OPEN THIS PAPER.**

**QUESTION ONE**

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The Agreement on Subsidies and Countervailing Measures as well as the Agreement on Antidumping practices provide exceptions to the non-discrimination principles under the multilateral trading system. Fully discuss. [25 Marks]

**QUESTION TWO**

On 8 July 1979, the UTOPIAN authorities enacted the Royal Decree No. 1764/79 (B.O.E. of 20 July) by which the tariff treatment and the sub-tariff classification applied to imports of unroasted, non-decaffeinated coffee (ex. CCCN 09.01) were modified and amended, effective by 1 March 1980.

Imports of unroasted coffee, which prior to this last date entered UTOPIA's customs territory under one and the same designation, were sub-divided into five tariff lines to which duty rates applied as follows:

Table

UTOPIA's present tariff treatment for unroasted non-decaffeinated coffee beans (Royal Decree 1764/79 - Tariff No. 09.01. A.1a)

<b>PRODUCT DESCRIPTION</b>	<b>DUTY RATE</b>
1. GRANDVIEW mild	Free
2. Other mild	free
3. Unwashed Arabica	7% ad valorem
4. Robusta	7% ad valorem
5. Other	7% ad valorem

Prior to the Royal Decree 1764/79, imports of unroasted coffee into UTOPIA were subject to a customs duty of 25 per cent ad valorem which was subsequently reduced to 22.5 per cent. In 1975, by Decree-Law 13/75 of 17

November of that year, UTOPIA exempted imports of certain food products, including unroasted coffee, from customs duties when they were imported under the State-trading system. Eversince UTOPIA acceded to GATT, customs duties on raw coffee were never bound, and, therefore, not included in Schedule XLV of UTOPIAN concessions in GATT.

On the same date, 8 July 1979, the UTOPIAN authorities also published the Royal Decree 1765/79 which provided that as from 1 March 1980 imports of unroasted coffee would cease to be under State-trading and would begin to be marketed by private entities. Prior to that, imports of unroasted coffee into UTOPIA were the monopoly of the Office of the General Commissioner for Supply and Transport (CAT) which also had exclusive responsibility for domestic supply.

Under the State-trading régime and intervention in the domestic market, the use of blends was prohibited in UTOPIA and coffee was obligatorily marketed under the designations Superior, Regular and Popular, which largely corresponded to the types "mild", "unwashed Arabica", and Robusta, respectively. The CAT also maintained a system of maximum authorized prices for each of these types of coffee.

On 30 November 1979, a Ministerial Order (Ministry of Trade and Tourism) did away with the requirement to market coffee under the designations Superior, Regular and Popular. Confirming this removal of obligatory designations, the Resolution of the same Ministry's General Directorate of Domestic Trade, of 8 February 1980, indicated a single maximum price for the domestic sale of these products without distinction as to type.

UTOPIA's imports of raw coffee clearly showed a rising trend over the period 1967-1979 having increased two-fold by volume, and ten-fold by value. The increases in value and volume were not parallel, owing not only to international market fluctuations but also to differences in the composition of the UTOPIAN imports, in terms of types of coffee.

While varying, the main suppliers always included both SOLFERINO and Colombia, although neither was always the principal supplier. UTOPIA's imports of unroasted coffee from SOLFERINO were constituted of almost entirely "unwashed Arabica", and they evolved in most recent times.

DISCUSS THE ISSUES ARISING FROM THE ABOVE SET OF FACTS, THE RELEVANT PRINCIPLE(S) OF THE WTO AND HOW THE WTO PANEL HAS ADDRESSED SUCH ISSUES IN DECIDED CASES. **[25 Marks]**

**QUESTION 3**

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Outline the circumstances under which products can be said to be "dumped" in the local market of the importing country. **[25 Marks]**

**QUESTION FOUR**

Discuss fully the two elements of the non-discrimination principle in international trade, pointing out the differences between the two. Are there any exceptions to these principles? **[25 Marks]**

**QUESTION FIVE**

Write short notes on the following:

- (a) "Red Light" subsidies
- (b) The theory of absolute advantage
- (c) Theory of comparative advantage
- (d) Least developed countries (LDC) and the MFN principle
- (e) The concept of a 'benefit' in the definition of a subsidy under the SCM Agreement.

**[25 Marks]**